



California Association of Building Energy Consultants
Building an Energy Efficient California

September 3, 2003

Robert Pernell, Presiding Member
Arthur Rosenfeld, Associate Member
Energy Efficiency Committee
California Energy Commission

Re: Request to Delete HERS Provider Notification Requirements in Residential ACM

Dear Commissioners:

While there is much to appreciate in these proposed standards, CABEC does have concerns about newly proposed language that requires HERS provider notification by the documentation author. This language is proposed in Section 7 of the Residential ACM and requires the documentation author, typically a CABEC member, to perform actions that complicates the permit process while offering no benefit to the builder, consumer or enforcement agency.

Currently, when field verification of compliance measures by a HERS rater is required, this requirement is clearly noted on the Certificate of Compliance and it is the responsibility of the builder to follow through and engage a HERS rater to perform that work. It is also the responsibility of the building officials to ensure that the proper HERS verifications have been made.

The proposed language requires the documentation author to notify the HERS provider whenever compliance documentation requires HERS field verification.

We suggest that the language as drafted is unworkable, incomplete and misinterprets the business relationships necessary for successful HERS verification. We fully understand and support the desire to close the loop on HERS verification so that every home that requires HERS verification gets it. However, requiring that the documentation author to notify the HERS provider at the time of compliance documentation would be useless because the real business relationship for HERS verification must be between the builder and a HERS rater at the time of construction. The documentation author has no role in that process and to ask the author to notify a HERS provider serves no one.

Specifically, we ask that the following language be deleted:

1. Section 7.4 – Entire Section
2. Section 7.9.1 – Entire Section
3. Section 7.9.5 – 1st Paragraph

Some of the shortcomings of the proposed language include:

1. Although requirements for the documentation author to notify the HERS provider were added, no language was added directing the HERS provider on what to do with this information. What will become of these notifications?
2. The enforcement agency is supposed to verify that the documentation author notified the HERS provider - does this imply that the author's signature on the compliance documentation is not enough? No language is provided to require that the HERS provider verify this notification in a timely fashion. It is quite possible that plan check could be held up because the enforcement agency cannot get verification as to whether a HERS provider has been notified.
3. The language is silent on what to do if there is more than one HERS provider. What happens if the documentation author notifies one HERS provider and the builder selects another?
4. This language adds a significant burden of work to HERS providers. It is likely that the HERS providers will charge for this service and add to the cost of construction.
5. This language requires that the HERS provider be notified before the builder or designer has even gone to the building department for a building permit. What happens if the plans are modified and no longer require field verification? Will the HERS provider contact the building department to check?
6. The way this language is worded, the documentation author cannot complete the compliance documentation until he has notified the HERS provider. It is inappropriate for a third party HERS provider to receive these documents before the builder or designer who hired the energy consultant. This is awkward for the consultant-customer relationship as most compliance documentation authors are consultants working for the builders and designers.
7. Finally, we can see no way that imposition of this notification by the documentation author will actually encourage builders or enforcement agencies to carry out their legal obligation. The Certificate of Compliance already provides full notice to everyone that HERS field verification is necessary – anyone who looks at it should be aware of those requirements and be prepared to follow through with their responsibilities to fulfill them.

In closing, we believe that a far more effective effort to improve compliance with HERS verified features would be to focus on language and requirements that would make it clear to the enforcement agencies that no home requiring a HERS verified feature should pass inspection unless the HERS rater has verified the required features and completed the appropriate Certificate of Field Verification and Diagnostic Testing (CF-4R).

To add this language as proposed will add one more reason that the building industry will continue to avoid using HERS verified features whenever possible. Please delete the unproductive language noted above so we can continue to work together for better buildings in California.

Sincerely

Bill Mattinson
CABEC residential representative to the CEC